

**REMARKS**

These remarks are in response to the Official Action mailed March 1, 2004, in which claims 1-35 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Errico et al., U.S. Patent No. 5,575,792 ("*Errico*") in view of Ralph et al., U.S. Patent No. 5,882,350 ("*Ralph*"). The Examiner essentially contends that *Errico* discloses each recitation included within independent claims 1, 12, 25 and 35, except for the fact that *Errico* does not teach a clamping means having a connecting member loading the seat of a connector to inwardly deform a first portion of the connector and mobilize the head therein. However, the Examiner also contends that *Ralph* discloses a clamping means teaching this recitation. The Examiner submits that it would have been obvious for one in the art to combine the teachings of *Errico* to thereby render independent claims 1, 12, 25 and 35 obvious and unpatentable as well as dependent claims 2-11, 13-24 and 26-34.

Applicants respectfully traverse the Examiner's contentions and highlight that claim 1 of the present application includes the recitation wherein the inwardly deformable portion is integral with the second portion of the connector, as shown in FIGS. 1 and 2. The *Ralph* connector has no inwardly deformable first portion integral with the rod receiving second portion. In contrast, the inwardly deforming portion of *Ralph* is a separate distinct element from the rod receiving portion 206 of body 200, as shown in FIGS. 7 and 9. This is the different locking method that is further bolstered by the inclusion of three distinct elements within the *Ralph* connector that enables the rod to be clamped relative to a head of a bone fastener. The additional elements include cap portion 142, socket portion 132 and body 200, all of which are required for the rod to be locked relative to the head of a bone fastener (col. 8, lines 7-22). Thus, *Ralph* does not teach a

clamp having an inwardly deforming first portion of the connector integrally formed with the second portion of the connector as claimed. Further, as stated in the Office Action, the Examiner already states that *Errico*, "did not teach of a clamping means wherein the connector is arranged so that, when the clamping means loads the connecting member in the second housing in the direction of the axis, the connecting member loads the seat to inwardly deform the first portion and immobilize the head therein; . . . ." *Ralph* does not supply the missing claim requirement that "the connecting member locks?? the seat to inwardly deform the first portion." Thus, *Errico* and *Ralph*, either alone or in combination, do not teach all the elements included with claim 1 of the present applications.

For the foregoing reasons argued above, applicants request reconsideration of the rejection of claim 1 and requests the allowance of claim 1 of the present invention. Further, since claims 2-11 depend from claim 1 and, as such, include all the recitations included within any claim from which they depend, claims 2-11 should also be deemed to contain patentable subject matter for arguments consistent with claim 1.

Independent claims 12 and 25 include recitations directed towards the connector having a seat with two raised ends. This differs from the *Ralph* clamping means as shown in FIGS. 9 and 10. In *Ralph*, the nut 185 places pressure against the rod 250 which subsequently contacts cap portion 142 and an apex of a spherical arc. The cap portion 142 is translated downward to further cause socket portion 132 to also be translated downward. As socket portion 132 is translated downward, its walls are caused to deflect inward by the tapered interior wall of body 200. Once again this is contrasted with claims 12 and 25 of the present invention wherein a force against the two raised ends causing the first connector portion to deform inwardly. *Errico*, as discussed above, does not teach

the clamping means as claimed by the Applicant and acknowledged by the Examiner in the Office Action. Thus, for the same arguments above with respect to claim 1, claims 12 and 25 should be deemed to contain patentable subject matter.

Claims 13-24 and claims 26-34 depend from independent claims 12 and 25 respectively and, as such, include all the recitations included within the independent claims from which they depend. Consistent with the argument made in conjunction with claims 12 and 25, claims 13-24 and claims 26-34 should be deemed to contain patentable subject matter.

Independent claim 35 as amended, includes a similar recitation to claim 1, with the clamping means being integral the first portion. Thus, for arguments consistent with regard to claim 1, claim 35 should be deemed to be patentable.

Additionally, currently amended independent claim 35 now includes a limitation wherein the means on said seat is integral with the seat. Thus, similar to the arguments made with respect to claim 1 above, neither *Errico* nor *Ralph* disclose a screw head clamping system entirely integral with the connector. For arguments consistent with those made in conjunction with claim 1, applicants believe that claim 35 should be deemed to contain subject matter and be allowable.

As such, it is respectfully charged that all rejections have been traversed and claims 1-35 of the present application should be deemed allowable.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he/she telephone applicants' attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

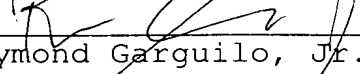
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If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

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